

Senate Study Bill 3114 - Introduced

SENATE/HOUSE FILE _____

BY (PROPOSED OFFICE OF ENERGY
INDEPENDENCE BILL)

A BILL FOR

1 An Act relating to the utilization of energy by authorizing
2 the establishment of an energy finance program to finance
3 certain energy improvements, and providing a penalty.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 331.441, subsection 2, paragraph b,
2 Code Supplement 2009, is amended by adding the following new
3 subparagraph:

4 NEW SUBPARAGRAPH. (20) The establishment or funding of
5 an energy finance program to finance energy improvements in a
6 county pursuant to chapter 385.

7 Sec. 2. Section 384.24, subsection 3, Code Supplement 2009,
8 is amended by adding the following new paragraph:

9 NEW PARAGRAPH. y. The establishment or funding of an energy
10 finance program to finance energy improvements within a city
11 pursuant to chapter 385.

12 Sec. 3. NEW SECTION. **385.1 Legislative findings — purpose.**
13 The general assembly finds all of the following:

14 1. Renewable energy production and energy efficiency
15 improvements to residential, commercial, and industrial real
16 property, are necessary to address the issue of energy bill
17 stabilization.

18 2. The initial investment required to make residential,
19 commercial, or industrial real property more energy-efficient
20 or to utilize renewable energy prevents many property owners
21 from making such improvements. To make energy improvements
22 more affordable and to promote their installation, it is
23 necessary to authorize an alternative procedure for owners of a
24 residence or business to finance such improvements.

25 3. The general assembly declares that a public purpose
26 shall be served by authorizing cities and counties to establish
27 energy finance programs and authorizing the governing body
28 of any city or county to assist property owners in financing
29 the installation of renewable energy improvements and energy
30 efficiency improvements by offering financial terms that are
31 beneficial to the property owner.

32 Sec. 4. NEW SECTION. **385.2 Definitions.**

33 As used in this chapter, unless the context otherwise
34 requires:

35 1. "*Energy analysis*" means a written report summarizing the

1 results of a physical inspection of a residential, commercial,
2 or industrial building conducted by a public utility or other
3 agency or entity approved by the office. The report shall
4 document deficiencies in energy efficiency operation and
5 recommend specified energy improvements.

6 2. "*Energy improvement*" means the installation of one
7 or more appliances or heating and cooling systems, physical
8 alteration to a building, or installation of a renewable energy
9 production facility which has been identified in an energy
10 analysis as improving the energy-efficient operation of a
11 building or as decreasing the amount of energy consumed by that
12 building, or both.

13 3. "*Office*" means the office of energy independence
14 established in section 469.2.

15 Sec. 5. NEW SECTION. 385.3 Energy finance program
16 established.

17 1. A city or county may adopt an ordinance establishing an
18 energy finance program in order to allow the city or county
19 to offer to assess to residential, commercial, or industrial
20 property within the city or county the cost of purchasing or
21 installing energy improvements. The office shall advise cities
22 and counties in administering the program.

23 2. An energy finance program shall be limited to energy
24 improvements that will be permanently affixed to real property
25 that has already been developed or upon which buildings have
26 already been constructed. Property owners participating in the
27 program may receive funding for the improvements in advance
28 of installation, or as a reimbursement of amounts expended by
29 the property owner for completed installations. However, the
30 amount advanced or reimbursed shall not exceed the total amount
31 identified in the petition submitted by the property owner
32 pursuant to section 385.6.

33 3. Petitions for participation in an energy finance program
34 adopted by a city or county may be submitted, considered,
35 and approved or denied either individually or aggregated by

1 neighborhood, district, region, or other basis.

2 Sec. 6. NEW SECTION. **385.4 Resolution of intent.**

3 1. The governing body of a city or county may not consider
4 an ordinance establishing an energy finance program until
5 after the governing body has adopted a resolution of intent
6 indicating or including the following:

7 *a.* That the city or county considers it in the public
8 interest to finance the installation of energy improvements.

9 *b.* That the city or county proposes to make special
10 assessment financing or other financing available to property
11 owners seeking to install or make energy improvements.

12 *c.* A nonexclusive list of examples of energy improvements
13 which may be included in the proposed ordinance and financed
14 pursuant to the program.

15 *d.* A brief description of the proposed arrangements for
16 financing the program.

17 2. The city or county shall hold a public hearing on the
18 resolution at which interested persons may inquire about or
19 object to the proposed program. Notice of the hearing shall
20 be published as provided in section 331.305 or 362.3, as
21 applicable.

22 Sec. 7. NEW SECTION. **385.5 Program requirements —**
23 **ordinance.**

24 1. An ordinance establishing an energy finance program
25 shall include the following regarding implementation of the
26 program:

27 *a.* A schedule for packaging assessments for program finance
28 purposes and city council or board of supervisors approval.

29 *b.* A method for prioritizing approved applications in the
30 event the number of applications received for a year exceeds
31 program funds.

32 *c.* Energy analysis requirements.

33 2. After adoption of an ordinance establishing an energy
34 finance program, a plan for raising a capital amount required
35 to pay for work performed pursuant to contractual assessments

1 shall be established by a city or county. A city or county
2 shall be authorized to advance funds available to it from any
3 source, including the sale of bonds as provided in section
4 385.11 and in section 331.441 or 384.24, as applicable. The
5 plan shall specify the source of financing contemplated by the
6 city or county. The plan shall also provide for a reserve
7 fund and for apportionment of all or any portion of the costs
8 incidental to financing, administration, and collection of the
9 special assessments between or among property owners and the
10 city or county.

11 3. The ordinance establishing an energy finance program
12 shall provide for the establishment of an energy finance
13 program fund into which bond proceeds and other funds to be
14 utilized in administering the program shall be deposited.

15 4. If a county has adopted a countywide ordinance, a city
16 cannot adopt an ordinance establishing an energy finance
17 program applicable to that portion of the city located within
18 the county.

19 Sec. 8. NEW SECTION. 385.6 **Petition by property owners.**

20 1. The office shall develop and make available to a city or
21 county that has established an energy finance program petitions
22 for distribution to prospective program participants.

23 2. Program participation shall be initiated solely by
24 petition of the property owner, or by a representative of
25 several related or adjoining lots or parcels who has obtained
26 written permission and a copy of an energy analysis from each
27 owner. If a property is in the name of more than one owner, the
28 petition shall be signed by each owner.

29 3. The petition shall state that a copy of a completed
30 energy analysis shall be required for participation in the
31 program and must be attached to the petition. The petition
32 shall contain space for the printed name, signature, and
33 address of the petitioner. For each petitioner, the petition
34 shall contain space for identification of energy improvements
35 identified in the energy analysis for which energy finance

1 program financing is sought, a cost estimate for each
2 improvement so identified, and a proposed time frame within
3 which the improvements shall be undertaken and completed.

4 4. Within thirty days following submission of a petition
5 and accompanying energy analysis, a petitioner shall receive
6 notification from the city or county of approval pending
7 adoption of a resolution pursuant to section 385.7 by the city
8 council or county board of supervisors, or of denial of the
9 petition. Following adoption of a resolution, an approved
10 petitioner shall receive notification from the city or county
11 regarding funding amounts, authorization to purchase directly
12 any equipment and materials for the installation of energy
13 improvements and to contract directly for such installation,
14 and verification requirements regarding completion of
15 improvements.

16 5. Special assessments for energy improvements shall be
17 levied only upon the free and willing consent of the owner of
18 each lot or parcel on which an assessment is levied at the time
19 of levy.

20 Sec. 9. NEW SECTION. 385.7 Resolution and filing.

21 1. Approved petitions, whether submitted on an individual
22 or aggregate basis, shall be grouped either by date of approval
23 or property location, identified by legal description, and
24 submitted to a city council or county board of supervisors in
25 the form of a resolution for approval by majority vote.

26 2. An adopted resolution shall be forwarded to the city
27 clerk, or the county auditor in the case of a county, along
28 with a schedule including a description and parcel number of
29 each lot, the name of the property owner, and the total amount
30 to be assessed to each lot. In counties in which taxes are
31 collected in two or more places, certification shall be to the
32 office of county treasurer where the special assessments are
33 collected. The county treasurer shall preserve the resolution
34 and schedule as a part of the records of the office until the
35 city clerk or county auditor certifies the final assessment

1 schedule as provided in section 385.8 or certifies that the
2 petition has been abandoned.

3 Sec. 10. NEW SECTION. **385.8 Adoption of schedule.**

4 1. Within ten days after filing of the resolution and
5 schedule pursuant to section 385.7, a city council or county
6 board of supervisors shall meet, consider, and adopt or amend
7 and adopt, by resolution, a final assessment schedule. The
8 resolution must:

9 a. Confirm and levy assessments.

10 b. State the number of annual installments, not exceeding
11 fifteen, into which assessments of one hundred dollars or more
12 are divided.

13 c. Provide for interest on all unpaid installments at a rate
14 not exceeding that permitted by chapter 74A.

15 d. State the time when assessments are payable.

16 e. Direct the city clerk or county auditor, as appropriate,
17 to certify the final schedule to the treasurer of each county
18 in which the assessed property is located.

19 2. The city clerk or county auditor shall send written
20 notice by regular mail to each property owner whose petition
21 has been approved and whose property has been included on the
22 schedule. The notice shall contain all the information and
23 statements required to be included in notices under section
24 384.60, subsection 2.

25 3. The county treasurer shall enter on the county system the
26 amounts to be assessed against each lot, as certified.

27 Sec. 11. NEW SECTION. **385.9 Installments due — lien**
28 **created.**

29 1. Special assessments levied by a city or county pursuant
30 to this chapter shall be levied and collected in the same
31 manner as provided in section 384.65 for public improvement
32 special assessments levied by a city.

33 2. From the date of filing of certification of the
34 resolution and schedule pursuant to section 385.7, the special
35 assessments with all interest become and remain a lien on the

1 benefited property until paid, and have equal precedence with
2 ordinary taxes, and are not divested by any judicial sale.

3 Sec. 12. NEW SECTION. **385.10 Payment to county treasurer.**

4 Assessments levied and certified under this chapter,
5 including installments and interest, are payable at the office
6 of the county treasurer of the county where the property
7 assessed is located, except that assessments may be paid
8 in full or in part and without interest within thirty days
9 after the date of certification, at the office of the county
10 treasurer, if the property being assessed is located in an
11 unincorporated area, or the city clerk, if the property being
12 assessed is located in an incorporated area.

13 Sec. 13. NEW SECTION. **385.11 Bonds issued.**

14 1. After certification of the final assessment schedule, a
15 city or county may, by resolution, authorize and issue bonds in
16 anticipation of the collection of unpaid special assessments.
17 However, the total principal amount of bonds issued may not
18 exceed the total amount of unpaid special assessments.

19 2. All special assessment bonds are negotiable, must state
20 on their face that they are issued under the provisions of this
21 chapter, and are payable as to both principal and interest from
22 the proceeds of the special assessments. Such bonds may bear
23 interest at a rate not exceeding that permitted by chapter
24 74A payable annually or semiannually, must mature serially
25 on December 1 of the years in which any of the principal is
26 scheduled to become due, and may contain a provision that the
27 city or county reserves the right and option of calling and
28 redeeming any or all of the bonds prior to maturity on any
29 interest payment date or within forty-five days thereafter
30 upon the terms specified therein. Such bonds must be called
31 "improvement bonds", must designate the general type of
32 improvement or improvements for which issued, and may be issued
33 in any denomination. The bonds must be named in a way to
34 distinguish them from other improvement bonds of the city or
35 county, and to designate the property specially assessed for

1 the improvement. Improvement bonds issued for any one levy
2 must bear the same date and be divided into as many series as
3 there are years in which installments of the special assessment
4 mature, and each series must be as nearly equal in amount as
5 practicable.

6 3. The proceeds of the special assessments and interest
7 collected thereon must be used and applied by the city or
8 county to the payment of the interest on the bonds and to
9 the retirement of the principal as rapidly as proceeds are
10 collected. Such bonds and coupons do not make the city or
11 county liable in any way, except for the proper application of
12 special assessments. If interest becomes due on any of the
13 bonds when there is no fund from which to pay it, the council
14 or board of supervisors may make a temporary loan for payment
15 of the interest, which loan must be repaid from the special
16 assessments and interest pledged to secure the bonds, but in
17 case of purchase by the city or county at tax sale of the
18 property on which a special assessment under this chapter is
19 levied, from the general fund.

20 4. Special assessment bonds issued under this section
21 must be sold at public or private sale in the manner provided
22 by chapter 75, and may not be sold for less than par value
23 with accrued interest from date to the time of delivery. The
24 proceeds of the sale must be applied to the payment of the
25 cost of financing the energy improvements approved under this
26 chapter.

27 5. Any excess of proceeds from special assessments
28 remaining after all of the bonds have been paid with interest
29 may be credited to the energy finance program fund established
30 pursuant to ordinance or returned to the applicable property
31 owners on a proportionate basis.

32 6. Cities or counties may issue refunding bonds to pay off
33 and take up special assessment bonds issued pursuant to this
34 chapter, or to refund any part thereof, as follows:

35 a. Refunding bonds must substantially conform to the

1 provisions of this chapter, and the face value is limited to
2 the amount of the unpaid special assessments with the interest
3 thereon of the particular issue of bonds to be refunded.

4 *b.* Refunding bonds or their proceeds may be used only to pay
5 improvement bonds taken up.

6 *c.* The expense of refunding bonds must be paid out of the
7 energy finance program fund of the city or county.

8 *d.* When refunding bonds are issued to pay improvement
9 bonds, all special assessments and sinking funds applicable to
10 the payment of the improvement bonds previously issued must
11 be applied in the same manner and to the same extent to the
12 payment of the refunding bonds, and all the powers and duties
13 to levy and to carry special assessments and taxes, to create
14 liens upon property, and to establish sinking funds in respect
15 to the bonds previously issued continue until refunding bonds
16 are paid.

17 *e.* The city or county shall collect the special assessment
18 out of which the refunding bonds are payable and hold the
19 proceeds in trust for the payment of the refunding bonds, but
20 it is not liable except for the proper application of the
21 assessments.

22 7. No action shall be brought questioning the legality
23 of the bonds authorized by this section from and after sixty
24 days from the date the bonds are ordered issued by the city or
25 county.

26 Sec. 14. NEW SECTION. 385.12 Verification — penalty.

27 1. The office shall determine an inspection procedure to
28 be utilized by a city or county upon completion of an energy
29 improvement financed pursuant to the energy finance program.

30 2. The city council or board of supervisors may impose a
31 civil penalty against a property owner for failure to complete
32 an energy improvement for which a petition was submitted by the
33 property owner and approved and financing was received. The
34 penalty may be in an amount up to but not exceeding the amount
35 of financing received.

1 Sec. 15. NEW SECTION. **385.13 Report.**

2 The results of the program including but not limited to the
3 number of petitions received, the number of petitions approved,
4 types of energy improvements for which special assessments are
5 sought, and average special assessment size, shall be submitted
6 by a city or county participating in the program to the office
7 by December 1 annually. The office shall make available on its
8 internet site all information received under this subsection.

9 Sec. 16. Section 403.19, subsection 2, Code 2009, is amended
10 to read as follows:

11 2. That portion of the taxes each year in excess of such
12 amount shall be allocated to and when collected be paid into
13 a special fund of the municipality to pay the principal of
14 and interest on loans, moneys advanced to, or indebtedness,
15 whether funded, refunded, assumed, or otherwise, including
16 bonds issued under the authority of section 403.9, subsection
17 1, incurred by the municipality to finance or refinance, in
18 whole or in part, an urban renewal project within the area,
19 ~~and~~ to provide assistance for low and moderate income family
20 housing as provided in section 403.22, and to provide funding
21 for an energy finance program adopted pursuant to chapter 385
22 with regard to property within the urban renewal area, except
23 that taxes for the regular and voter-approved physical plant
24 and equipment levy of a school district imposed pursuant to
25 section 298.2 and taxes for the payment of bonds and interest
26 of each taxing district must be collected against all taxable
27 property within the taxing district without limitation by the
28 provisions of this subsection. However, all or a portion of
29 the taxes for the physical plant and equipment levy shall be
30 paid by the school district to the municipality if the auditor
31 certifies to the school district by July 1 the amount of such
32 levy that is necessary to pay the principal and interest
33 on bonds issued by the municipality to finance an urban
34 renewal project, which bonds were issued before July 1, 2001.
35 Indebtedness incurred to refund bonds issued prior to July 1,

1 2001, shall not be included in the certification. Such school
2 district shall pay over the amount certified by November 1
3 and May 1 of the fiscal year following certification to the
4 school district. Unless and until the total assessed valuation
5 of the taxable property in an urban renewal area exceeds the
6 total assessed value of the taxable property in such area as
7 shown by the last equalized assessment roll referred to in
8 subsection 1, all of the taxes levied and collected upon the
9 taxable property in the urban renewal area shall be paid into
10 the funds for the respective taxing districts as taxes by
11 or for the taxing districts in the same manner as all other
12 property taxes. When such loans, advances, indebtedness, and
13 bonds, if any, and interest thereon, have been paid, all moneys
14 thereafter received from taxes upon the taxable property in
15 such urban renewal area shall be paid into the funds for the
16 respective taxing districts in the same manner as taxes on all
17 other property. In those instances where a school district
18 has entered into an agreement pursuant to section 279.64 for
19 sharing of school district taxes levied and collected from
20 valuation described in this subsection and released to the
21 school district, the school district shall transfer the taxes
22 as provided in the agreement.

23

EXPLANATION

24 This bill authorizes cities and counties to establish an
25 energy finance program to finance energy improvements for the
26 benefit of property owners within the city or county.

27 The bill defines an "energy improvement" as the installation
28 of one or more appliances or heating and cooling systems,
29 physical alteration to a building, or installation of a
30 renewable energy production facility which has been identified
31 in an energy analysis as improving the energy-efficient
32 operation of a building or as decreasing the amount of energy
33 consumed by that building, or both. The bill defines an
34 "energy analysis" as a written report summarizing the results
35 of a physical inspection of a residential, commercial, or

1 industrial building conducted by a public utility or other
2 agency or entity approved by the office of energy independence
3 documenting deficiencies in energy efficiency operation and
4 recommending specified energy improvements.

5 Pursuant to the program, a city or county may offer to assess
6 to residential, commercial, or industrial property within the
7 city or county the cost of purchasing or installing energy
8 improvements. The office of energy independence shall serve in
9 an advisory capacity. The bill states that the program shall
10 be limited to energy improvements that will be permanently
11 affixed to real property which has already been developed
12 or upon which buildings have already been constructed, and
13 that property owners participating in the program may receive
14 advance funding for the improvements or reimbursement after the
15 fact.

16 The bill provides that the governing body of a city or county
17 initiates participation in the program by adopting a resolution
18 of intent indicating that it is in the public interest to
19 finance the installation of energy improvements, that special
20 assessment financing or other financing shall be available to
21 property owners, examples of energy improvements which may be
22 financed and a brief description of financing arrangements.
23 The bill provides for notice regarding the time and place of a
24 public hearing on the resolution.

25 The bill directs a city or county wishing to establish
26 an energy finance program to adopt an ordinance which
27 shall include a schedule for packaging assessments for
28 program finance purposes and city council or county board
29 of supervisors approval, a method for prioritizing approved
30 applications, and energy analysis requirements. After adoption
31 of the ordinance, the city or county is also directed to
32 establish a plan for raising the capital to pay for work
33 performed pursuant to the special assessments and shall be
34 authorized to advance funds available to it from any source.
35 The bill states that if a county has adopted a countywide

1 ordinance, a city cannot adopt an ordinance in that portion of
2 the city located within the county.

3 The bill provides that the office shall develop petitions
4 for use by property owners applying for the program, informing
5 the property owner of the need to complete an energy analysis,
6 containing space for property owner identifying information and
7 for a listing of energy improvements and cost estimates for
8 which a special assessment is sought, and requesting a proposed
9 time frame within which the improvements shall be undertaken
10 and completed. Program participation shall be initiated solely
11 by petition of the property owner or by a representative of
12 several related or adjoining lots or parcels who has obtained
13 written permission, a petition signature, and a copy of an
14 energy analysis from each owner. The bill provides that within
15 30 days following submission of a petition and accompanying
16 energy analysis, a petitioner shall receive notification
17 from the city or county of approval or denial, and that if
18 approved the petitioner shall receive subsequent notification
19 regarding funding amounts, authorization to purchase directly
20 any equipment and materials for the installation of energy
21 improvements and to contract directly for such installation,
22 and verification requirements regarding completion of
23 improvements.

24 The bill provides that approved petitions, whether submitted
25 on an individual or aggregate basis, shall be grouped either
26 by date of approval or property location, identified by legal
27 description, and submitted to a city council or county board
28 of supervisors in the form of a resolution for approval by
29 majority vote. The bill directs a city council or county board
30 of supervisors to forward an approved resolution to the city
31 clerk or county auditor, along with a schedule including a
32 description and parcel number of each lot, the name of the
33 property owner, the valuation of each lot as determined by the
34 council, and the total amount proposed to be assessed to each
35 lot.

1 The bill then specifies procedures for adoption of the
2 schedule by the city council or county board of supervisors,
3 certification to the county treasurer, and property owner
4 notification provisions. The bill provides that the special
5 assessments shall be levied and collected in the same manner as
6 provided in Code section 384.65 for public improvement special
7 assessments levied by a city. Bonding provisions are set forth
8 which closely correspond to provisions applicable to special
9 assessment bonds authorized in Code section 384.68.

10 The bill authorizes utilization of tax increment financing
11 moneys to fund special assessments under the program
12 for property in an urban renewal area, and includes the
13 establishment of the energy finance program within the
14 definition of "essential corporate purpose" and "essential
15 county purpose" contained in Code chapters 384 and 331,
16 respectively, and applicable to the issuance of general
17 obligation bonds.

18 The bill requires the office of energy independence to
19 determine an inspection procedure to verify completion of an
20 energy improvement financed pursuant to the program. The
21 office is also required to make available on its internet site
22 the results of the program based upon information required
23 to be submitted on an annual basis by a city or county
24 participating in the program.

25 The bill provides that a city or county may impose a civil
26 penalty in an amount not to exceed the amount financed for
27 failure to complete an energy improvement for which a petition
28 was submitted and approved and financing was received.